

REMARKS/ARGUMENTS

These remarks are submitted in response to the Office Action of April 20, 2006 (hereinafter Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. Nonetheless, the Examiner is expressly authorized to charge any deficiencies or credit any overpayments to Deposit Account No. 50-0951.

Claims 1-18 were rejected under 35 U.S.C. 102 (e) as being anticipated by U.S. Published Patent Application No. 2004/0203788 to Fors *et al.* (hereinafter Fors). Claim 19 was rejected under 35 U.S.C. 103 (a) as being unpatentable over Fors, in view of U.S. Published Patent Application No. 2005/0043051 to Takano *et al.* (hereinafter Takano). Claims 20-21 were rejected under 35 U.S.C. 103 (a) as being unpatentable over Fors in view of Takano, and further in view of U.S. Published Patent Application No. 2005/0090259 to Jain *et al.* (hereinafter Jain).

The Claims Define Over The Cited References

As already noted, independent Claims 1, 7, 11, and 15 were each rejected as being anticipated by Fors. Fors is directed to an apparatus and method for effecting the "handoff [of calls] from a cellular wireless network to a non-cellular wireless network," such as a wireless local network (WLAN). (See paragraph [0015]; see also Abstract, lines 1-5.) One aspect of Fors is the combination of "an access gateway and a dual mode mobile station" that can determine relative signal strengths with respect to both networks and, in response thereto, provide "information" to the access gateway to initiate a call handoff.

Applicants respectfully assert, however, that Fors fails to expressly or inherently teach every feature recited in independent Claims 1, 7, 11, and 15. For example, Fors

fails to teach a gateway, system, or call-control methods for sending to a mobile network a signal indicator, referred to as a "heightened signal indicator," that explicitly prompts the mobile network to recognize a particular path or gateway as a preferred path or gateway for handing off a call.

It is stated at page 2 of the Office Action that Fors discloses the sending of a heightened signal strength indicator. In the portion cited, Fors provides the following description of a mechanism for handing off a call:

"[0028] As MS 201 moves within the coverage area of WLAN AP 210, MS 201 performs signal strength measurements and establishes contact with AP 210. Establishing contact typically involves obtaining an IP address for itself (MS 201) and for an access gateway (CAG 214, in the first embodiment). At some point, MS 201 determines that a handoff from serving BS 250 to AP 210 is preferred. MS 201 may determine this based on criteria such as the relative signal strength of BS 250 and AP 210, the relative cost of wireless service, and/or user indications of preference. For example, the user may set an MS option to switch to WLAN service whenever signal conditions allow or whenever the WLAN service is determine to be cheaper.

"[0029] Having determined that a handoff is preferred, processor 204 sends a handin request (302) to CAG 214. The request is sent to CAG 214 via transmitter 202, WLAN AP 210, and IP network 211. Thus, the handin request is sent using an IP packet addressed to CAG 214. The handin request contains an indication of which MSC is associated with MS 201, i.e., which MSC is serving MS 201. The indication takes the form of a

serving cell identifier which CAG 214 can use to determine the corresponding serving MSC. In the first embodiment, this serving cell identifier is the PN offset of MS 201's serving cell within BS 250, while in an alternative GSM embodiment, the serving cell identifier may be the Base Transceiver Station Identity Code (BSIC) of MS 201's serving cell.

"[0030] Cellular interworking device 216 of CAG 214 receives the IP-packetized handin request from MS 201 via network interface 215. In response to MS 201's handin request, cellular interworking device 216 of CAG 214 sends a handoff request (304) to MSC 251. CAG 214, representing the handoff target, sends this message to trigger inter-MSC handoff procedures. Thus, it is the handoff target that initiates the handoff of MS 201 from the cellular network to the WLAN. This new handoff request message is necessary because the prior art messaging (i.e., IS-41/MAP) does not provide for the handoff target to initiate an inter-MSC handoff. In the prior art, the serving MSC initiates such handoffs; however, in the case of a cellular-to-WLAN handoff, the serving cellular MSC (MSC 251, e.g.) is not aware of the non-cellular, WLAN network.

"[0031] The handoff request message triggers serving MSC 251 to set up the necessary circuits and send a FACDIR2 message. CAG 214 receives the MAP FACDIR2 message (306) from serving MSC 251 and sends a MAP facdir2 message (308) back in response. Serving MSC 251 then sends an initiate handoff message (310) to serving BS 250. In the first embodiment, this initiate handoff message would be a Clear Command signaling serving BS 250 to clear its wireless resources supporting MS 201. Release channel

messaging particular to the cellular network (e.g., IS-95 or GSM messaging) is then exchanged (312) between MS 201 and BS 250. For example, processor 204 of MS 201 receives a handoff release indication from BS 250 via receiver 203. In the first embodiment, this indication would be a CDMA Handoff Direction Message, while in an alternative GSM embodiment this indication may be a HND_CMD (handoff command) message.

"[0032] After completing channel release messaging, processor 204 of MS 201 sends a handoff complete indication (314) to CAG 214 via transmitter 202, WLAN AP 210, and IP network 211. Thus, the handoff complete indication is sent using an IP packet addressed to CAG 214. Cellular interworking device 216 of CAG 214 receives the IP-packetized handoff complete indication from MS 201 via network interface 215. In response to this indication, cellular interworking device 216 sends an indication to MSC 251 that the MS is on channel (316). Specifically, this indication is a MAP MSONCH message." (Paragraphs [0028] – [0033].)

"[0033] MSC 251 then switches the MS 201 call information to CAG 214. CAG 214 receives the call information (via DSO signaling, e.g.) and routes (317) it to MS 201 via IP network 211 and WLAN AP 210. Thus, MS 201 completes a handoff from the cellular network to the WLAN, continuing to receive its call information via MSC 251, CAG 214, and WLAN AP 210.

Applicants respectfully note, firstly, that nowhere in the quoted language is there any mention, explicitly or implicitly, of a signal strength indicator, let alone a heightened signal strength indicator for prompting the mobile network to recognize the gateway as a preferred path for handing off a call, as recited in independent Claims 1, 7, 11, and 15. Indeed, Fors only refers to signal strength in the limited context of a measurement determined by a mobile station (MS).

As explicitly described in Fors, when the MS determines that a handoff from a base station (BS) to a WLAN access point (AP) is "preferred," the MS sends a "handin" request to a cellular access gateway (CAG), which, in turn, determines the mobile switching center (MSC) then handling the MS. The CAG sends a handoff request to the MSC, and another CAG representing the "handoff target" sends a "message to trigger" an inter-MSC handoff procedure. The message "sets up the necessary circuits," and subsequent messaging ensues. When completed, the MS "completes the handoff," as explicitly described in Fors.

None of the messages exchanged during the handoff effected by Fors conveys any information regarding signal strength. Rather, with Fors, signal strength is only one of several possible criteria used by the MS to determine whether handoff is preferred. (See paragraph [0028], lines 7-13.) Applicants respectfully note, moreover, that every other reference to signal strength in Fors is similarly limited to this single context: a measurement made by the MS to determine whether a handoff is preferred. (See paragraphs [0007], [0015], and [0021].) It follows that Fors does not teach, even implicitly, the sending of a heightened signal strength indicator to the mobile network. The messaging described in Fors is from the MS to the CAG, from one CAG to another CAG ("inter-CAG" messaging). Moreover, none of the messages exchanged in Fors, correspond to a signal strength indicator that prompts the mobile network to recognize a

gateway or path as a preferred gateway or path for handing off a call, as recited in the claims.

Accordingly, Fors fails to expressly or inherently teach every feature recited in independent Claims 1, 7, 11, and 15. Applicants, therefore, respectfully submit that the claims define over the prior art. Applicants further respectfully submit that whereas Claims 2-6, 8-10, 12-14, and 16-18 each depend from one of independent Claims 1, 7, 11, and 15 while reciting additional features, these dependent claims likewise define over the prior art.

Applicants' Invention Predates Takano and Jain

It is noted at pages 5-7 of the Office Action that Fors fails to teach or suggest every feature of Claims 19-21. It is further stated, however, that the features lacking in Fors are found in Takano and Jain. Applicants respectfully disagree, but assert more fundamentally that these issues are moot because Applicants' invention predates the August 18, 2003, and October 24, 2003, effective dates of Takano and Jain, respectively.

Applicants conceived of their invention at least as early as April 3, 2003 and actively pursued its reduction to practice from a date prior to the effective dates of both Takano and Jain. In support of their assertion, Applicants submit the Declaration attached hereto. The Declaration establishes conception and continuing diligence from a time prior to the effective dates of Takano and Jain to the filing of the Application.

Along with the Declaration, Applicants also submit herewith a copy of Confidential Invention Disclosure No. BOC8-2003-0053, entitled *Voice Over IP Gateway Capability Enabling Conversion of VoIP Media Control Messaging into Mobile Control Channel Signaling* (hereinafter Disclosure). The Disclosure was submitted on March 25, 2003, by Applicants to an intellectual property (IP) professional employed by

the assignee of Applicants' invention, International Business Machines Corporation (IBM). The Disclosure was insubstantially modified on April 4, 2003. The Disclosure has not been revised subsequent to April 4, 2003.

The Disclosure explicitly describes and illustrates Applicants' invention. The written description and illustrations provided in the Disclosure are clear evidence of Applicants' conception of the claimed subject matter at least as early as April 4, 2003.

The Disclosure is an IBM confidential disclosure form. It is a standardized document that, according to established IBM procedures, is used by IBM inventors to document the conception of an invention. Strictly-followed internal procedures established by IBM govern the use of all such confidential disclosure forms. One aspect of IBM's established procedures governing the use of such confidential disclosure forms is that no substantive modifications can be made to a confidential disclosure after it has been submitted to an IBM Attorney/IP Professional.

The written description, drawings, and each of the claims of the Application were prepared based upon the Applicants' attached Disclosure. Moreover, according to IBM's established procedures governing the use of such disclosures, the inventors reviewed the Application prior to its submission to the U.S. Patent and Trademark Office in order to ensure that the claims and written description contained therein were fully supported by the Disclosure.

Applicants exercised due diligence from prior to the effective dates of Takano and Jain to the date that the Application was filed. As expressly affirmed in the Declarations, Applicants from at least April 4, 2003, through the filing of the Application on December 15, 2003, worked diligently toward a constructive reduction to practice of the invention, first with IBM's own in-house IP professionals, and then with outside counsel retained by IBM to prepare and file the Application.

Outside counsel prepared the Application consistent with long-established professional practices, according to which cases are prepared on a first-in, first-out basis unless a particular application is associated with a bar date; those applications associated with dates are granted priority within the work queue. Outside counsel followed this professionally-accepted practice in preparing the Application in this case.

Evidence of Applicants' due diligence is submitted herewith in the form of correspondence between Applicants and outside counsel. The correspondence evince specific activity on specific dates relating to Applicants' pursuit of a constructive reduction to practice from a time prior to the effective dates of Takano and Jain. The correspondence includes a letter of June 20, 2003, from an IBM professional to outside counsel instructing outside counsel to prepare a draft application for Applicants' invention. The correspondence also includes a letter of June 24, 2003, from outside counsel confirming receipt of those instructions. A draft application prepared by outside counsel was sent to Applicants on November 4, 2003, as evidenced by the e-mail from outside counsel on that date. Inventors' comments regarding the draft were received by outside counsel in subsequent correspondence, as evidenced by the inventors' e-mail to outside counsel on November 17, 2003. After revisions consistent with the received comments were made to the draft, outside counsel filed the present Application.

Applicants respectfully submit that it was reasonable for them to rely on outside counsel in preparing the Application, and that outside counsel acted with diligence, notwithstanding the constraints of other work obligations, in preparing the Application. Applicants further respectfully submit that the evidence of specific activity on specific dates clearly evinces Applicants prior conception and diligence in pursuing a reduction to practice from a time prior to the effective dates of Takano and Jain.

Applicants respectfully note that the Declarations, Disclosure, and evidence of conception and diligence were not previously submitted because Applicants' date of

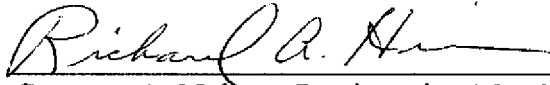
conception of the invention and diligence in pursuing a reduction to practice were not previously in issue. The issue has been raised now by the introduction of the Tankano and Jain references, not previously cited. Accordingly, Applicants respectfully assert that their submission of the Declarations and Disclosure, submitted herewith, is timely.

CONCLUSION

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

Date: July 20, 2006


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Disclosure BOC8-2003-0053

Prepared for and/or by an IBM Attorney - IBM Confidential

Created By Tom Creamer On 03/25/2003 01:19:43 PM MST

Last Modified By Tom Creamer On 04/03/2003 05:02:28 PM EST

Required fields are marked with the asterisk (*) and must be filled in to complete the form .

*Title of disclosure (in English)

Voice over IP Gateway Capability Enabling Conversion of VoIP Media Control Messaging into Mobile Control Channel Signaling

Summary

Status	Under Evaluation
Final Deadline	
Final Deadline Reason	
*Processing Location	Boca Raton
*Functional Area	[REDACTED]
Attorney/Patent Professional	Richard Tomlin/Boca Raton/IBM
IDT Team	[REDACTED]
Submitted Date	04/03/2003 12:43:27 PM MST
*Owning Division	[REDACTED]
Incentive Program	
Lab	
[REDACTED]	[REDACTED]
Code	[REDACTED]

Inventors with a Blue Pages entry

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Moore, Victor S.	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

> denotes primary contact

Inventors without a Blue Pages entry

IDT Selection

Attorney/Patent Professional Richard Tomlin/Boca Raton/IBM
IDT Team Elaine Venturelli/Boca Raton/IBM
Response Due to IP&L 05/03/2003

***Main Idea**

1. Background: What is the problem solved by your invention? Describe known solutions to this problem (if any). What are the drawbacks of such known solutions, or why is an additional solution required? Cite any relevant technical documents or references.

When Wireless LAN (WLAN) technology, such as 802.11, is implemented and interconnected with mobile wireless technology networks, such as TDMA, CDMA or GSM, there is a need to provide seamless messaging between the two (or more) wireless networks. Solutions are being developed and implemented to study this problem. In some cases limited trials have started to test and study early versions of solutions which enable seamless roaming between such wireless networks. Investigation has shown that the current implementations may be based on proprietary implementations, which has caused service providers (SPs) to make changes to their current infrastructure(s).

2. Summary of Invention: Briefly describe the core idea of your invention (saving the details for questions #3 below). Describe the advantage(s) of using your invention instead of the known solutions described above.

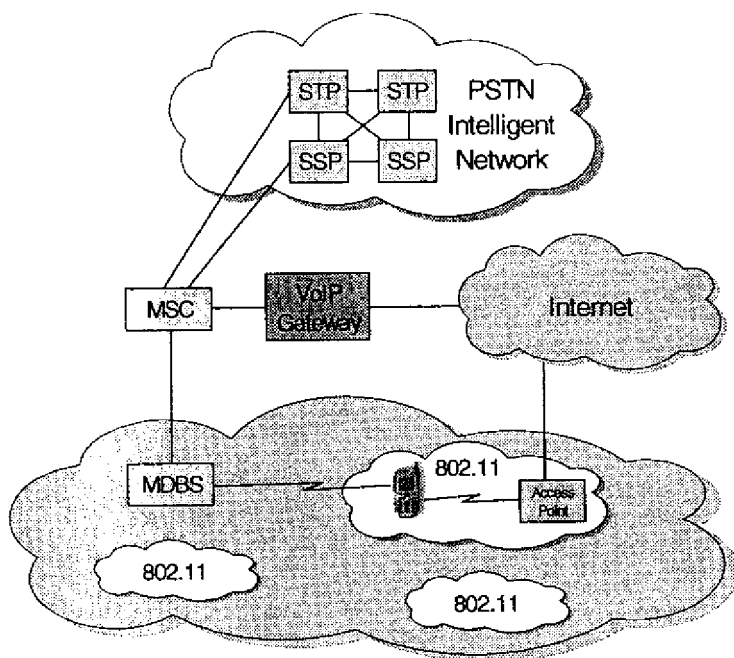
This invention provides a media (Voice over IP) gateway capability that focuses on the conversion of VoIP media control messaging into mobile control channel signaling. The advantage is that WLAN technologies can be integrated with the current mobile networks without making changes to the SP's current infrastructure. By using this implementation method activities such as roaming can be accomplished between disparate wireless networks using mobile device (cell phone, wireless PDA, etc.) enabled with both cellular and WLAN capabilities.

3. Description: Describe how your invention works, and how it could be implemented, using text, diagrams and flow charts as appropriate.



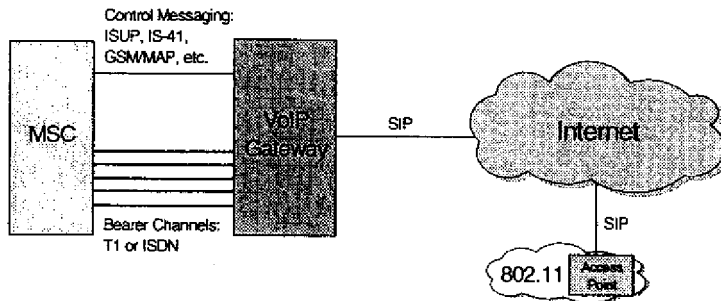
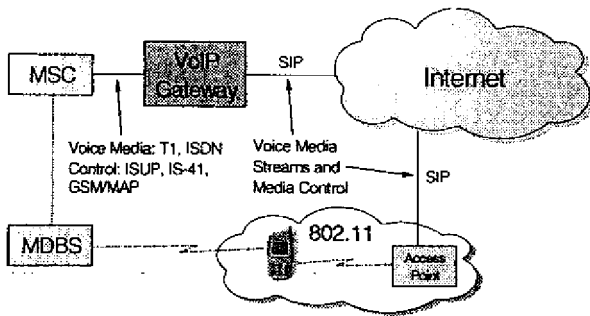
This freelance file contains the graphics shown below ... VoIP Gateway for Control Channel.P

The figure below shows the invention in the context of a combined mobile (cellular) network and a Wireless (example: 802.11) LAN network interconnect to provide roaming capabilities over a VoIP Gateway. Note that the VoIP Gateway and the MDCS (Mobile Data Base Station?) are actually peer network elements.



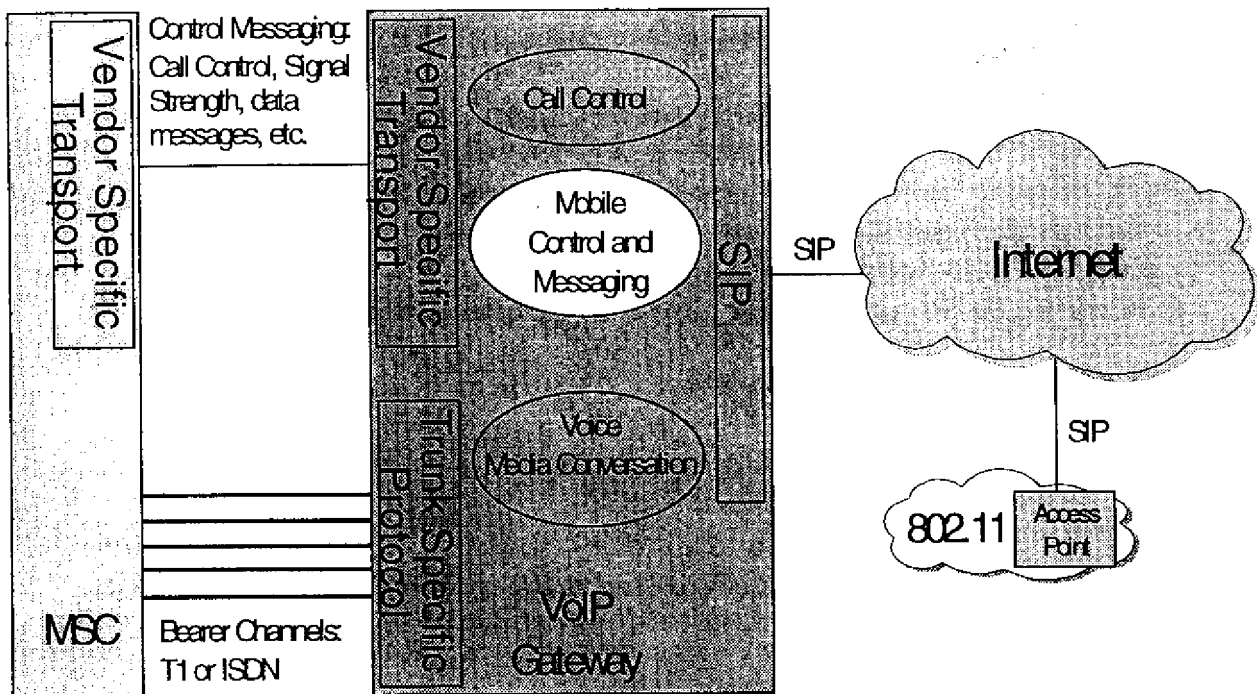
The figure below shows two close up views of the interconnected mobile and WLAN networks. The top view shows an example of the voice media streams flowing over an IP (internet protocol) network using SIP. The SIP protocol is used to support both the voice media streams and the media control messaging across the IP network. The SIP voice media stream and the SIP media control streams are converted by the VoIP Gateway into voice media and control messaging that is compliant with the mobile network. Note that this conversion is also done from the mobile network into the WLAN (SIP) by the VoIP Gateway.

The bottom view in the figure below is a closer look at the VoIP Gateway and its relationship to the MSC (Mobile Switching Center). Without going into a lot of detail, the VoIP interfaces are exactly the same as the interfaces of a MDBS to the MSC. Note that this disclosure does not cover the standard VoIP Gateway interfaces to a network switching component. Those interfaces are well known and *most* are provided by VoIP Gateways today. This invention focuses on the non-obvious parts of the MDBS interface which are contained within the media control messaging channel and are not obvious today in solving the mobile-to-WLAN roaming problem.



In the figure below the focus is on providing a Mobile Control and Messaging (MCM) application (or process), which acting as an MDBS provides control messaging to the MSC such that the MSC switches the voice media streams from the MDBS to VoIP Gateway. This is done by have the MCM application generate false signal strength indicators (example: value = FFFF) for the mobile subscriber. By doing this the MSC will recognise the VoIP as the valid, or appropriate, path for the voice streams to flow through to the mobile subscriber. This would cause:

- Normal roaming and switching behavior by the MSC
- No need for any changes to the MSC switching element(s)
- Complete compatibility between the current, existing mobile wireless networks and newly installed WLAN infrastructure.
- Seamless roaming between the mobile wireless network and a WLAN network as it relates to voice media traffic



*1. [REDACTED]
[REDACTED]
[REDACTED]
Comments
[REDACTED]
☐ Yes ☒ No

*2. [REDACTED]
☐ Yes ☒ No

*3. [REDACTED]
[REDACTED]
☒ No
☐ Yes
☐ Yes
☐ Yes
☐ Yes
☐ Yes

*4. [REDACTED]
in [REDACTED]
☐ Yes ☒ No

*5. [REDACTED]
A [REDACTED]
V [REDACTED]



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6169-429

12/17/03

June 20, 2003

Akerman, Senterfitt
222 Lakeview Avenue
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REF: Invention Disclosure: BOC8-2003-0053
Title: **Voice over IP Gateway Capability Enabling Conversion of VoIP Media Control
Messaging into Mobile Control Channel Signaling**
IBM Docket: BOC9-2003-0058

Dear Kevin,

Please prepare and file the above referenced case with the U.S. Patent and Trademark Office. A copy of the invention disclosure, patentability search results and inventor's comments are enclosed for your use in preparation of the application in accordance with IBM's format.

Sincerely,

Richard A. Tomlin
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Enclosures



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June 24, 2003

Richard A. Tomlin, Esquire
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RE: New U.S. Patent Application
VOICE OVER IP GATEWAY CAPABILITY ENABLING CONVERSION OF
VOIP MEDIA CONTROL MESSAGING INTO MOBILE CONTROL
CHANNEL SIGNALING
IBM Docket No. BOC9-2003-0058; Our Reference No.: 6169-429

Dear Dick:

Thank you for your letter dated June 20, 2003. In accordance with IBM standard protocol, a patent application will be prepared and filed in the above-referenced matter on or before December 17, 2003. Notwithstanding, we will strive to prepare the patent application in an expedient manner.

As always, thank you for allowing us to be of assistance to you.

Very truly yours,

AKERMAN SENTERFITT

Kevin T. Cuenot

KTC/vb

From: Alaine Allison
To: creamer@us.ibm.com; nkatz@us.ibm.com; vmoore@us.ibm.com
Date: 11/4/03 11:56AM
Subject: IBM Docket No. BOC9-2003-0058 / 6169-429

RE: Draft Patent Application for
CONVERSION OF VOICE-OVER-IP MEDIA CONTROL MESSAGING INTO MOBILE CONTROL
CHANNEL SIGNALING USING A VOICE-OVER IP GATEWAY
IBM Docket No. BOC9-2003-0058; Our Reference No. 6169-429

Dear Inventors:

Attached please find a draft of a patent application and associated drawings for your review in the above-identified matter. Please review the application carefully to ensure that the description of the invention accurately recites all of the invention's characteristics in the broadest possible manner, while also explaining, in detail, the preferred embodiment of the invention. The drawings should also be reviewed to confirm that they accurately depict the various details of the invention as you and your co-inventors understand them.

Importantly, please ensure that each inventor named on the cover sheet of the patent application has contributed to the conception of your invention as described in at least one of these claims. If, for some reason we have neglected to list an inventor who has contributed to the conception of subject matter described in a claim, please so advise us immediately.

Once you have reviewed the draft application, please forward your comments and/or any suggestions you may have.

Please keep in mind that we have been asked by the IP Law Department to file the referenced patent application in the U.S. Patent and Trademark Office on or before year-end, and as such, would appreciate your prompt attention to this request.

Very truly yours,

AKERMAN SENTERFITT

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*Licensed to practice before the
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Sent on Mr. Cuenot's behalf to avoid delay

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revised

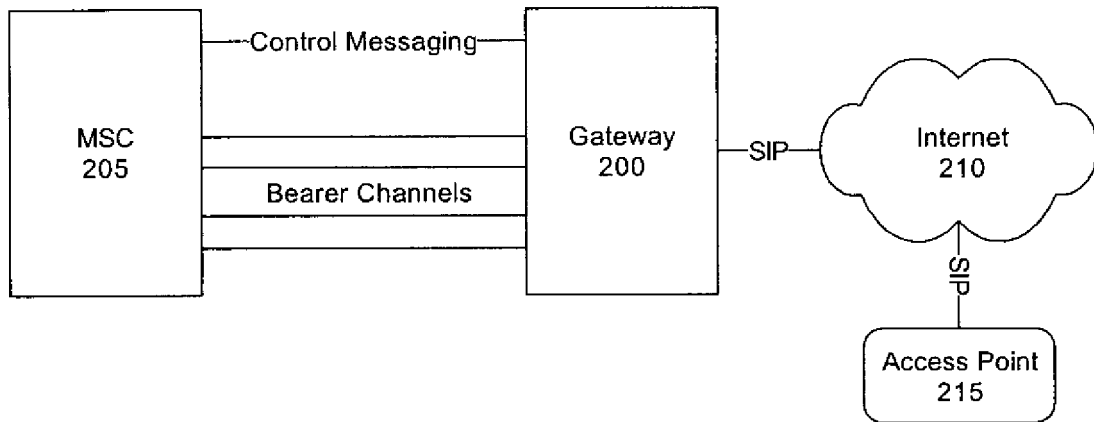


FIG. 2

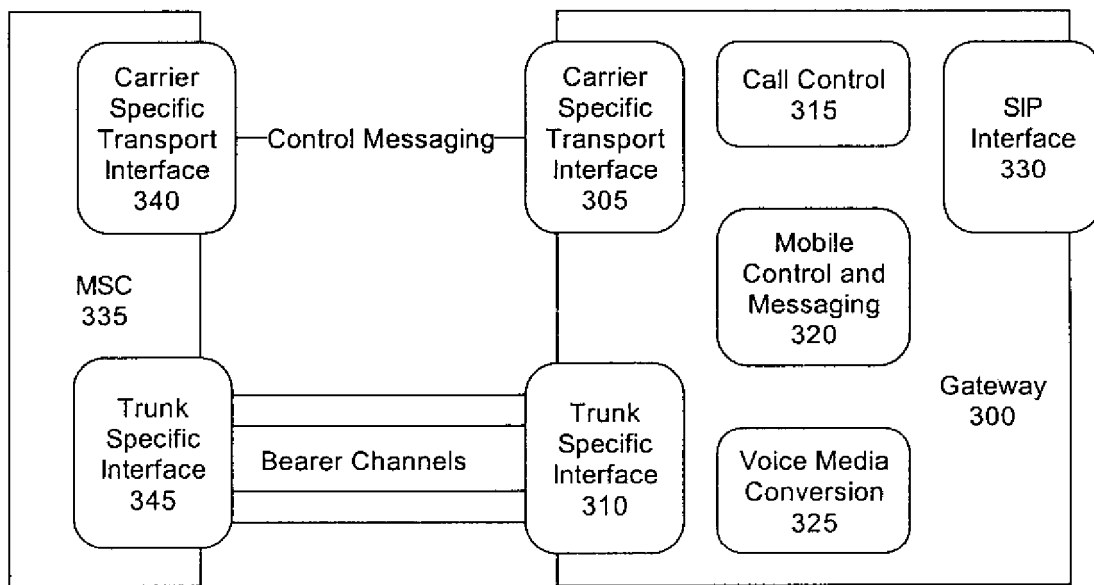


FIG. 3



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December 15, 2003

Ms. Elaine Venturelli
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Re: New U.S. Patent Application
CONVERSION OF VOICE-OVER-IP MEDIA CONTROL MESSAGING INTO
MOBILE CONTROL CHANNEL SIGNALING USING A VOICE-OVER-IP
GATEWAY
IBM Docket No.: BOC9-2003-0058; Our Docket No.: 6169-429

Dear Elaine:

Please be advised that the above-referenced application was filed in the United States Patent and Trademark Office (USPTO) on December 15, 2003. Enclosed for your records are copies of all papers as filed and the diskette.

In order to continue to satisfy the strictly enforced duty of disclosure under U.S. practice, please promptly advise us of any additional prior art information which is now known or which may become known to those involved in the preparation or prosecution of this application, and which the U.S. Examiner may deem relevant to patentability of the claims. Such information should include any commonly assigned patents and pending applications disclosing and/or claiming closely related subject matter.

In order to avoid possible late fees, all such additional information which is now known should be sent to us in sufficient time for filing by **March 15, 2004**. For information which may later become known, please send us such information in sufficient time for filing within three months from the date the information was first known to anyone involved in the preparation or prosecution of this application, together with the date the information was first known.

We will keep you promptly informed of further developments as they occur. In the meantime, if you have any questions, please do not hesitate to contact us. As always, thank you for allowing us to be of service to you in this matter.

Very truly yours,

AKERMAN SENTERFITT

Kevin T. Cuenot

KTC/aa
Enclosures

{WP161223;1}